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**SENATE BILL 5373**

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**State of Washington 67th Legislature 2021 Regular Session**

**By** Senators Lovelett, Saldaña, Das, Dhingra, Frockt, Hunt, Kuderer, Nguyen, Pedersen, Salomon, Stanford, Wellman, and Wilson, C.

AN ACT Relating to carbon pollution; adding a new chapter to Title 82 RCW; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  (1) The emissions of greenhouse gases, such as carbon dioxide, is a significant contributor to anthropogenic climate change, and has devastating adverse impacts on Washington's economy, environment, natural resources, and communities. Our state is already experiencing rising sea levels, depleting snowpack, increased flooding, acidifying oceans, and more frequent and severe wildfires. These impacts impair our prosperity and impose burdensome costs on our businesses and communities.

(2) Climate risk is economic risk and it is imperative that Washington act now to safeguard the state's communities and industries against future shocks and disasters by putting a price on practices that increase the state's exposure to risk and investing in those that increase resilience. From farmers whose business is directly threatened by the climate crisis, to coastal communities at risk of outright displacement, the state must act now by investing locally at the scale needed to move all Washingtonians toward a future of shared prosperity as we build the clean economy here in Washington state.

(3) Washington state is home to some of the world's most innovative companies, a highly skilled workforce, and important industries. As our state transitions away from a fossil fuel-based economy, we must do so in a way that protects these assets and allows our businesses to thrive. By launching a comprehensive fiscal program that incentivizes and invests in resilient infrastructure and climate-smart investments across all areas of development, we can reduce our state's carbon dioxide emissions while preparing our economy for the future.

(4) The legislature recognizes that rural areas are home to the state's working and natural lands, including forests and farms, and have both climate-related challenges and opportunities that differ from urban areas. Rural workers have further distances to travel to their jobs and the state must provide assistance in the transition to lower-carbon transportation options. Rural areas may also have greater vulnerability to flooding, wildfires, and other events whose harm and frequency is increased by climate change, and state assistance should be directed toward increasing community resilience to these harms. Programs to reduce carbon pollution and to sequester carbon in the state's forests and farming soils also provide an opportunity to benefit the state's farmers and forestland owners.

(5) More than half of Washington is forested with 22,000,000 acres of forests covering the state, including natural lands, private lands, and state trust lands. The private and state lands represent the foundation of a forest products industry that sequesters massive amounts of carbon dioxide from the atmosphere simply through its standard, baseline operations. These working forests are one of the state's greatest natural assets in combating global greenhouse gas emissions. A statewide carbon policy must support and maintain the ecosystem values provided by the forest products industry. Healthy, sustainable, working forests maximize the forests' ability to absorb carbon dioxide with lumber and other forest products continuing to sequester that carbon dioxide in their useful life. For these reasons, this chapter exempts certain timber-related uses of fuels subject to the carbon pollution tax imposed under this chapter.

(6) Washington is also home to one of the most productive and innovative agricultural sectors in the world. Agriculture is not only critical to our economy, but it is integral to our culture. With farmers and farmworkers on the front lines of climate-related disruption such as wildfire, flooding, drought, pests, and other threats to the land, labor, and the business of farming, investing in practices that increase the natural and economic resilience of and decrease the greenhouse gas emissions from Washington agriculture is critical. Farmers have been leading the way on land stewardship and soil health for decades, while operating in a highly trade-exposed and price-constrained industry that imposes singular economic challenges. For these reasons, this chapter exempts certain agricultural uses of fuels subject to the carbon pollution tax imposed under this chapter.

(7) Washington is leading the transition to a clean energy economy and in 2019 adopted chapter 19.405 RCW, the clean energy transformation act, to eliminate coal-fired electricity, transition the state's electricity supply to 100 percent greenhouse gas neutral by 2030, 100 percent carbon free by 2045, and established strong compliance mechanisms and significant penalties within chapter 19.405 RCW if a utility fails to meet the mandates. Because of the laws created in 2019 to transition the electricity sector to 100 percent carbon free, emissions from fossil fuels consumed in the electricity sector is not included in the requirements of this chapter.

(8) The legislature recognizes the concern from imposing the requirements of this chapter on energy intensive trade exposed industries in our state and the possibility that it might provide a comparative advantage to producers in unregulated states or countries, leading to a migration of manufacturing to unregulated states or countries and generating a corresponding increase in greenhouse gas emissions that would undermine the efforts of this chapter. Because of the concern of leakage, the department of ecology must provide a report to the legislature by July 30, 2026, with recommendations on imposing the requirements of this chapter on energy intensive trade exposed entities identified by North American industrial classification system code. The recommendations must include input from individual energy intensive trade exposed industries stakeholders, allow for growth, recognize and provide credit for early actions, recognize the limits of best available control technology, allow for either internal or external benchmarking,  and include an analysis of alternative fuels available that could be feasibly used in lieu of fossil fuels.

(9) Fossil-fuel combustion is also responsible for other pollutants, such as nitrous oxide, carbon monoxide, benzene, particulate matter, and others that contribute to respiratory diseases like asthma and lung cancer, which compromise public health, shorten life expectancy, and strain our public health system. This pollution affects all Washingtonians, but falls disproportionately on low-income communities, communities of color, and the most vulnerable of our population. Reducing our reliance on fossil fuels will therefore contribute to improved air quality and improved public health outcomes.

(10) The legislature recognizes and finds that the public interest includes, but is not limited to: The equitable distribution of energy benefits and reduction of burdens to vulnerable populations and highly impacted communities; long-term and short-term public health, economic, and environmental benefits and the reduction of costs and risks; and energy security and resiliency. It is the intent of the legislature that in achieving this policy for Washington, there should not be an increase in environmental health impacts to highly impacted communities.

(11) This chapter establishes a carbon pollution tax to account for a significant share of the economic and environmental impacts of greenhouse gas emissions. The revenue from the tax will facilitate the transition from fossil fuels to clean energy and fund investments that will benefit our businesses, our families, and our communities.

(12) Furthermore, this chapter establishes a 10-year climate finance program that provides much needed additional capacity to invest in a just transition that protects our communities and our economy from future disasters and builds the low-carbon future here in Washington state. This finance program mandates that investment decisions are made in a manner that provides accountability in government spending through a fiscally responsible bond program that invests at scale in climate priorities and delivers maximum returns in the form of both economic activity and carbon pollution reduction. These investments will not only save Washington taxpayers billions of dollars in avoidable future costs, but also foster growth and stability for rural and urban communities alike, across diverse economic sectors.

NEW SECTION. **Sec.**  The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Aircraft fuel" has the same meaning as provided in RCW 82.42.010.

(2) "Carbon calculation" means a calculation made by the department of ecology, in consultation with the department of commerce, for purposes of determining the carbon dioxide emissions from the complete combustion or oxidation of fossil fuels for use in calculating the carbon pollution tax pursuant to section 3 of this act. The carbon calculation also includes the life-cycle analysis of emissions associated with these fuels determined under section 3 of this act.

(3) "Carbon dioxide equivalent" means a metric measure used to compare the emissions from various greenhouse gases based on their global warming potential.

(4) "Carbon pollution tax" means the tax created in section 3 of this act.

(5) "Coal" means a readily combustible rock of carbonaceous material, including anthracite coal, bituminous coal, subbituminous coal, lignite, waste coal, syncopal, and coke of any kind.

(6) "Department" means the department of revenue.

(7) "Direct access gas customer" means a person who purchases natural gas for consumption from any seller other than a seller registered with the department for purposes of paying taxes due under chapter 82.04 or 82.16 RCW.

(8) "Facility" means any physical property, plant, building, structure, source, or stationary equipment located on one or more contiguous or adjacent properties in actual physical contact or separated solely by a public roadway or other public right-of-way and under common ownership or common control, that emits or may emit any greenhouse gas.

(9) "Fossil fuel" means motor vehicle fuel, special fuel, dyed special fuel, aircraft fuel, natural gas, coal, and any form of solid, liquid, or gaseous fuel derived from natural gas, coal, petroleum, or crude oil, including without limitation still gas, propane, and petroleum residuals including bunker fuel.

(10) "Gas distribution business" has the same meaning as provided in RCW 82.16.010.

(11) "Greenhouse gas" means carbon dioxide, methane, nitrogen trifluoride, nitrous oxide, sulfur hexafluoride, hydrofluorocarbons, perfluorocarbons, and other fluorinated greenhouse gases.

(12) "Highly impacted community" has the same meaning as defined in RCW 19.405.020.

(13) "Motor vehicle fuel" has the same meaning as provided in RCW 82.38.020.

(14) "Natural gas" means naturally occurring mixtures of hydrocarbon gases and vapors consisting principally of methane, whether in gaseous or liquid form, including methane clathrate.

(15) "Person" has the same meaning as provided in RCW 82.04.030.

(16) "Sale" has the same meaning as provided in RCW 82.04.040.

(17) "Special fuel" has the same meaning as provided in RCW 82.38.020.

(18) "Taxpayer" means a person subject to the carbon pollution tax created in section 3 of this act.

(19) "Tribal lands" has the same meaning as "Indian country" as provided in 18 U.S.C. Sec. 1151, and also includes sacred sites, traditional cultural properties, burial grounds, and other tribal sites protected by federal or state law.

(20)(a) "Use," "used," "using," or "put to use" means, with respect to any fossil fuel other than natural gas, the consumption in this state of the fossil fuel by the taxpayer or the possession or storage in this state of the fossil fuel by the taxpayer preparatory to subsequent consumption of the fossil fuel within this state by the taxpayer.

(b) "Use," "used," "using," or "put to use" means, with respect to natural gas, the consumption in this state of the fossil fuel by the taxpayer.

(c) For the purposes of this subsection, "possession" means the control of fossil fuel located within this state and includes either actual or constructive possession, or both. "Actual possession" occurs when the person with control has physical possession. "Constructive possession" occurs when the person with control does not have physical possession. "Control" means the power to sell or use a fossil fuel or to authorize the sale or use by another.

(21) "Vulnerable populations" has the same meaning as defined in RCW 19.405.020.

(22) "Year" means the 12-month period commencing January 1st and ending December 31st unless otherwise specified.

NEW SECTION. **Sec.**  (1)(a) Beginning January 1, 2022, a carbon pollution tax is imposed on the sale or use within this state of all fossil fuels, except fossil fuels used to generate electricity in the state.

(b) The measure of the carbon pollution tax is the carbon dioxide equivalent emissions:

(i) Resulting from the complete combustion or oxidation of fossil fuels sold or used by the taxpayer within this state; and

(ii) For the purposes of measuring the tax rate under subsection (2) of this section only, from the entire life cycle of the fossil fuel.

(2) The tax rate as of July 1, 2022, is equal to $25.00 per metric ton of greenhouse gas emissions. The tax rate automatically increases annually each July 1st thereafter by five percent each year and is adjusted for inflation using the consumer price index.

(3) By January 1, 2031, the department of ecology shall make a determination of whether the sources of emissions covered by this tax are predicted to achieve their combined share of the emissions reductions necessary for the state to achieve the emissions limits established in RCW 70A.45.020. By January 1, 2031, the department of ecology must provide the legislature with a report detailing its determination with recommendations, pursuant to the tax and covered sources, for achieving the emissions limits established in RCW 70A.45.020.

(4) For the purposes of this chapter, the carbon pollution tax is imposed:

(a) Only once with respect to the same unit of fossil fuel;

(b) At the time and place of the first event within this state in which the tax is applicable, except as otherwise provided in this section, occurring on or after the effective date of this section, regardless of whether the fossil fuel was previously sold, used, or consumed within this state before the effective date of this section; and

(c) Upon the first person within this state upon which the tax would be applicable, except as otherwise provided in this section. Such a person includes:

(i) A person required to be registered with the department under RCW 82.32.030(1);

(ii) The state, its political subdivisions, and municipal corporations; and

(iii) A person who maintains a place of business in this state but who is not required to be registered with the department under RCW 82.32.030(1).

(5) As provided in this section, the carbon pollution tax on the sale or use of fossil fuels is imposed on the seller or user of the fossil fuel.

(6) The carbon pollution tax on the sale or use of natural gas is imposed as follows:

(a) Natural gas transported through the state that is not produced or delivered in the state is exempt from the carbon pollution tax imposed by this section. Natural gas possessed or stored in this state is exempt from the carbon pollution tax imposed by this section unless the tax is otherwise applicable under (b) or (c) of this subsection;

(b) For natural gas sold by a gas distribution business to a retail customer in the state, the carbon pollution tax is imposed on the gas distribution business upon the sale of such natural gas to the retail customer; and

(c) For natural gas sold to a direct access gas customer in the state, the carbon pollution tax is imposed on the direct access gas customer upon the consumption of such natural gas by the direct access gas customer.

(7) For motor vehicle fuel and special fuel, the carbon pollution tax is imposed on the seller or user of the fuel at the points of taxation specified in RCW 82.38.030(9).

(8)(a) The carbon pollution tax may not be applied to the sale or use of any fossil fuels or consumption of electricity upon which the tax under this chapter has been previously imposed.

(b) A sale of fossil fuel takes place in this state when the fossil fuel is delivered in this state to the purchaser or a person designated by the purchaser, notwithstanding any contract terms designating a location outside of this state as the place of sale.

(c) All sales subject to the tax within this state of a fossil fuel must document the amount of carbon pollution tax paid in accordance with rules adopted by the department.

(9) For purposes of determining the carbon pollution tax due under this chapter:

(a) The department must use the carbon calculation for all fossil fuels sold or used within the state, a calculation of the life-cycle emissions associated with the consumption in the state of transportation fuels;

(b) For fossil fuels, the department of ecology, in consultation with the department of commerce, must adopt by rule criteria for making the carbon calculation;

(c) The department of ecology may require additional information from sources as necessary, in consultation with the department of commerce, for determining the carbon calculation under this chapter.

(10) For taxpayers who are also subject to any of the taxes imposed under chapter 82.04, 82.08, 82.12, or 82.16 RCW, the frequency of reporting and payment of the carbon pollution tax must, to the extent practicable, coincide with a taxpayer's reporting periods for the taxes imposed under chapter 82.04, 82.08, 82.12, or 82.16 RCW.

(11) The department must develop and make available worksheets, tax tables, and guidance documents it deems necessary to calculate the carbon dioxide emissions of fossil fuels.

(12) The carbon pollution tax created under this section is levied solely for the purposes of funding projects and activities that reduce greenhouse gas emissions and mitigate the environmental impacts of greenhouse gas emissions and climate change. Therefore, 100 percent of receipts from the carbon pollution tax created under this section must be deposited in the climate finance account created in section 8 of this act.

NEW SECTION. **Sec.**  (1) The carbon pollution tax in section 3 of this act does not apply to:

(a) Fossil fuels brought into this state by means of the primary fuel supply tank of a motor vehicle, vessel, locomotive, or aircraft, actively supplying fuel for combustion upon entry into the state;

(b) Fossil fuels that the state is prohibited from imposing a tax under the state Constitution or the Constitution or laws of the United States;

(c)(i) Fossil fuels exported from this state. Export to Indian country located within the boundaries of this state is not considered export from this state. For purposes of this subsection, "Indian country" has the same meaning as provided in RCW 37.12.160.

(ii) An exporter of fossil fuels upon which another person previously paid the carbon pollution tax is entitled to a credit or refund of the tax paid, if the exporter can establish to the department's satisfaction that the tax under this chapter was previously paid on the exported fossil fuels. The person who paid the carbon pollution tax is not entitled to an exemption under this subsection (1)(c) when any other person is entitled to a refund or credit under this subsection (1)(c)(ii). For purposes of this subsection, "exporter" means a person who exports fossil fuels or electricity from this state;

(d) The sale or use of coal transition power as defined in RCW 80.80.010;

(e) Diesel fuel, biodiesel fuel, or aircraft fuel when these fuels are used solely for agricultural purposes by a farm fuel user, as defined in RCW 82.08.865;

(f) Biogas, which includes renewable liquid natural gas or liquid compressed natural gas made from biogas, landfill gas, biodiesel, renewable diesel, and cellulosic ethanol;

(g) Aircraft fuel as defined in RCW 82.42.010;

(h) The portion of fossil fuels purchased in the state and combusted outside the state by interstate motor carriers and vessels used primarily in interstate or foreign commerce. The department must provide a methodology by rule to apportion fossil fuels consumed inside the state of Washington by interstate motor carriers and vessels used primarily in interstate or foreign commerce;

(i) Activities or property of Indian tribes and individual Indians that are exempt from state imposition of a tax as a matter of federal law or state law, whether by statute, rule, or compact;

(j) Motor vehicle fuel or special fuel that is used exclusively for agricultural purposes by a farm fuel user. This exemption is available only if a buyer of motor vehicle fuel or special fuel provides the seller with an exemption certificate in a form and manner prescribed by the department. For the purposes of this subsection (1)(j), "agricultural purposes" and "farm fuel user" have the same meanings as provided in RCW 82.08.865; the department shall determine a method for expanding this exemption to include fuels used for the purpose of transporting agricultural goods on public highways; the department shall maintain this expanded exemption for a period of five years, in order to provide the agricultural sector with a feasible transition period;

(k)(i) Motor vehicle fuel or special fuel that is used by the following: (A) Log transportation businesses; and (B) persons in the business of extracting timber. This exemption is available only if a buyer of motor vehicle fuel or special fuel provides the seller with an exemption certificate in a form and manner prescribed by the department; the department shall determine a method for expanding this exemption to include fuels used for the purpose of transporting timber on public highways; the department shall maintain this expanded exemption for a period of five years, in order to provide the timber sector with a feasible transition period.

(ii) For the purposes of this subsection (1)(k), the following definitions apply: (A) "Log transportation business" has the same meaning as provided in RCW 82.16.010; and (B) "timber" means forest trees, standing or down, on privately owned or publicly owned land, and does not include Christmas trees that are cultivated by agricultural methods or short-rotation hardwoods as defined in RCW 84.33.035; and

(l) Any fossil fuels consumed by an energy-intensive, trade-exposed business in a sector designated by department rules. By June 30, 2022, the department in consultation with the departments of commerce and ecology shall adopt rules to designate energy-intensive, trade-exposed industry sectors. By July 30, 2026, the department of ecology must provide a report to the appropriate committees of the senate and house of representatives on whether to restrict or eliminate this exemption identified in this subsection (1)(l). In developing the report, the department of ecology must solicit input and data from industry sectors and other interested persons. The report must include recommendations for alternatives that will minimize leakage, allow for growth of Washington industries, recognize and provide credit for early actions to reduce emissions, availability of alternative fuels, and incorporate performance benchmarking of emissions intensity in production processes.

(2)(a) For any fossil fuels subject to the carbon pollution tax imposed by section 3 of this act that are also subject to a comparable carbon pollution tax or charge on carbon content imposed by another jurisdiction, including the federal government or allowances required to be purchased by another jurisdiction, the entity may take a credit against the tax imposed under this chapter by the amount of the comparable pollution tax or charge paid to the other jurisdiction up to the amount of tax owed under this chapter, provided that the person claiming the credit provides evidence acceptable to the department that the equivalent tax has been paid.

(b) For the purposes of this section, a comparable carbon pollution tax or charge means a tax or charge that is not generally imposed on other activities or privileges that is:

(i) Imposed on the sale, use, possession, transfer, or consumption of fossil fuels; and

(ii) Measured in terms of greenhouse gas emissions by the greenhouse gas emissions resulting from the complete combustion or oxidation of such fossil fuels.

NEW SECTION. **Sec.**  (1) The provisions of chapter 82.32 RCW apply to this chapter.

(2) The department, the department of ecology, the department of licensing, the department of transportation, and the department of commerce may adopt rules as they deem necessary to administer this chapter.

NEW SECTION. **Sec.**  (1) On or before December 31, 2024, and on or before December 31st of each even-numbered year thereafter, and in compliance with RCW 43.01.036, the department of commerce, with support from the department, must submit a report as required by this subsection. The initial report must include recommendations for establishing a process to audit uses of the accounts created in sections 16 and 17 of this act. The report must contain recommendations for modifications or improvements to this chapter to ensure the goals of this act are being met in addition to (a) through (d) of this subsection with respect to the implementation of this chapter for the period since the last report:

(a) The total carbon pollution taxes collected during the reporting period and a list of the taxpayers and the amount of carbon pollution tax paid by those taxpayers. The department must provide the information required under this subsection (1)(a), which is not confidential information under RCW 82.32.330;

(b) Estimated costs incurred by the department, the department of commerce, and the department of ecology, directly associated with administration of the carbon pollution tax, shown both in dollar amounts and as a percentage of the total amount of carbon pollution tax revenues collected;

(c) The impact on the economic health of Washington state, including verifiable data on emissions leakage and any job losses since the implementation of the carbon pollution tax implemented in section 3 of this act; and

(d) A summary of the investments made through the department of commerce's administration of the greenhouse gas emissions reduction account created in section 16 of this act, the natural climate solutions account created in section 17 of this act, and the climate bond proceeds account created in section 12 of this act. The summary must include amounts invested in each program area, project descriptions, names of grant recipients, an estimate of the greenhouse gas emissions reductions achieved or anticipated via the investments, and other pertinent information or information as periodically requested by the legislature.

(2) The department of commerce must provide information on its website regarding the impacts of the carbon pollution tax under this chapter on the price of natural gas and vehicle fuels by sector.

(3) The department of commerce, supported by the department and the department of health, must provide an environmental justice analysis that reports on environmental, health, and economic impacts on highly impacted communities and vulnerable populations from climate impacts and state measures taken to meet Washington's greenhouse gas emissions limits, including the tax and investments authorized by this chapter.

NEW SECTION. **Sec.**  Upon request of the department, the department of commerce, the department of ecology, and the Washington State University extension energy program must provide technical assistance to the department as may be necessary for the department to effectively administer this chapter.

NEW SECTION. **Sec.**  The climate finance account is created in the state treasury. One hundred percent of all receipts from the carbon pollution tax created in section 3 of this act must be deposited into the account. Moneys in the account may be spent only after appropriation.

(1) Moneys in the account must be used first and foremost for the payment of principal and interest on bonds authorized in section 9 of this act. The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing 12 months to meet the bond retirement and interest requirements on the bonds authorized under section 9 of this act. The state finance committee may provide that special subaccounts be created in the account to facilitate payment of the principal and interest on the bonds.

(2) On July 1st of each year, the state treasurer shall transfer from the climate finance account to the climate bond retirement account an amount equal to the amount certified by the state finance committee in this section.

(3)(a) Moneys remaining in the climate finance account after the transfer made pursuant to subsection (2) of this section may be used only for projects and programs that achieve the purposes of the carbon pollution tax as expressed in section 3 of this act. Moneys in the account as described in this subsection (3) must first be appropriated for the administration of the requirements of this chapter, in an amount not to exceed five percent of the total receipt of funds from the carbon pollution tax imposed under section 3 of this act. Beginning July 1, 2023, and annually thereafter, the state treasurer shall distribute funds remaining in the account after the transfer required in subsection (1) of this section as follows:

(i) Seventy-five percent of the moneys to the greenhouse gas emissions reduction account created in section 16 of this act; and

(ii) Twenty-five percent of the moneys to the natural climate solutions account created in section 17 of this act.

(b) The allocations specified in (a)(i) and (ii) of this subsection must be reviewed by the legislature on a biennial basis based on the changing needs of the state in meeting its clean economy and greenhouse gas reduction goals in a timely, economically advantageous, and equitable manner.

NEW SECTION. **Sec.**  (1) The state finance committee is authorized to issue special tax obligation bonds of the state of Washington in amounts not to exceed the sum of $4,943,000,000, or as much thereof as may be required, payable from receipts from the carbon pollution tax created in section 3 of this act deposited in the climate finance account created in section 8 of this act, to finance project categories as described under sections 16 and 17 of this act, and all costs incidental thereto.

(2) Bonds authorized in this section may be sold at such price as the state finance committee shall determine. No bonds authorized in this section may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds.

(3) The state finance committee may determine and include in any resolution authorizing the issuance of any bonds authorized by this chapter such terms, provisions, covenants, and conditions as it may deem appropriate in order to assist with the marketing and sale of the bonds, confer rights upon the owners of bonds, and safeguard rights of the owners of bonds, including, among other things:

(a) Provisions that the bonds shall be payable solely from and secured solely by the carbon pollution tax revenues received in the climate finance account created in section 8 of this act;

(b) The conditions that must be satisfied prior to the issuance of any additional bonds that are to be payable from and secured by the carbon pollution tax revenues received in the climate finance account created in section 8 of this act on equal basis with previously issued and outstanding bonds payable from carbon pollution tax revenues received in the climate finance account created in section 8 of this act;

(c) Provisions regarding reserves and credit enhancements;

(d) Whether bonds may be issued as tax-exempt bonds or must be issued as taxable bonds under the applicable provisions of the federal internal revenue code; and

(e) Whether the state will pursue third-party certification of bonds authorized by this chapter as green bonds, climate bonds, or any other appropriate certification that the state finance committee determines will increase marketability or minimize the cost of the bonds. Regardless of whether the state pursues third-party certification, bond proceeds must be used for projects that produce measurable climate mitigation or adaptation benefits.

NEW SECTION. **Sec.**  (1) The special tax obligation bonds authorized by this chapter may be issued for a period not to exceed 10 years. The authorization to issue bonds provided under section 9 of this act does not expire until the full authorization has been issued and dispersed, or until the end of the 10-year period, whichever occurs first. The state finance committee may choose to decrease the period of issuance based on updated forecasts and fiscal needs, but any increase in the period of issuance beyond the 10-year period authorized under this section requires the approval of the legislature.

(2) On a quarterly basis, and in compliance with RCW 43.01.036, the state treasurer may submit a report to the legislature that provides recommendations on the level of issuances over the 10-year period based on updated revenue forecasts, market factors, and fiscal needs. No bond issuance may be structured such that debt service obligations remain past December 31, 2050.

NEW SECTION. **Sec.**  Bonds authorized under this chapter are not a general obligation of the state and the full faith, credit, and taxing powers of the state are not pledged for their payment. Each bond issued under the authority of this chapter shall distinctly state that payment or redemption of the bond and payment of the interest and any premium thereon is payable solely from and secured solely by a pledge of the carbon pollution tax revenues received in the climate finance account created in section 8 of this act, and is not a general obligation of the state. The legislature pledges to appropriate the carbon pollution tax revenues pledged to the payment of the bonds issued under this chapter. The state finance committee shall include this pledge and agreement of the state to owners of any bonds issued under this chapter. The owner of any bond or the trustee of the owner of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of pledged funds as directed in this section.

NEW SECTION. **Sec.**  The climate bond proceeds account is created in the state treasury. Proceeds from the sale of bonds authorized in section 9 of this act must be deposited in the account. Moneys in the account may be spent only after appropriations and only for project categories as described under sections 16 and 17 of this act and for the payment of expenses incurred in the issuance and sale of the bonds. If the state finance committee deems it necessary to issue the bonds authorized in section 9 of this act as taxable bonds in order to comply with federal internal revenue service rules and regulations pertaining to the use of nontaxable bond proceeds, the proceeds of such taxable bonds must be deposited into the climate bond proceeds account. The state treasurer shall submit written notice to the director of financial management if it is determined that any such transfer to the climate bond proceeds account is necessary.

NEW SECTION. **Sec.**  The climate bond retirement account is created in the state treasury. Moneys in the account must be used only for the payment of principal and interest on bonds authorized in section 9 of this act. The state finance committee may provide that special subaccounts be created in the account to facilitate payment of the principal and interest on the bonds. The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing 12 months to meet the bond retirement and interest requirements on the bonds authorized in section 9 of this act.

NEW SECTION. **Sec.**  The state finance committee may issue bonds to refund outstanding bonds issued under this chapter, including the payment of any redemption premiums on the bonds and any interest accrued to or to accrue to the first redemption date after delivery of the refunding bonds. The proceeds of the refunding bonds may, at the discretion of the committee, be applied to the purchases or payment at maturity of the bonds to be refunded, or the redemption of the outstanding bonds on the first redemption date after delivery of the refunding bonds and may, until so used, be placed in escrow to be applied to the purchase, retirement, or redemption. Refunding bonds issued under this section must be issued and secured in the manner provided by the state finance committee.

NEW SECTION. **Sec.**  (1) It is the intent of the legislature that each year the total investments made through the climate bond proceeds account created in section 12 of this act, the greenhouse gas emissions reduction account created in section 16 of this act, and the natural climate solutions account created in section 17 of this act achieve the following, measured on a biennial basis:

(a) At least 35 percent of total investments authorized under this chapter must provide direct and meaningful benefits to vulnerable populations within the boundaries of highly impacted communities, as designated by the department of health under RCW 19.405.140;

(b) A minimum of 25 percent of total investments authorized under this chapter must be for the benefit of projects located in rural areas of the state. For the purposes of this subsection (1)(b), "rural counties" has the same meaning as in RCW 82.14.370. If the department determines that an adequate number of suitable applications for rural projects during any given funding cycle were not received, the department may allocate unused moneys for projects in other areas of the state; and

(c) At least 10 percent of the total investments authorized under this chapter must be used for programs, activities, or projects formally supported by a resolution of an Indian tribe, with priority given to otherwise qualifying projects directly administered or proposed by an Indian tribe. An investment that meets the requirements of this subsection (1)(c) and (b) may count toward the requisite minimum percentage for this subsection.

(2) The expenditure of moneys under this chapter must be consistent with applicable federal, state, and local laws, and treaty rights including, but not limited to, prohibitions on uses of funds imposed by the state Constitution.

(3) For the purposes of this section, "benefits" means investments or activities that:

(a) Reduce vulnerable population characteristics, environmental burdens, or associated risks that contribute significantly to the cumulative impact designation of highly impacted communities;

(b) Meaningfully protect a highly impacted community from, or support community response to, the impacts of air pollution or climate change; or

(c) Meet a community need identified by vulnerable members of the community that is consistent with the intent of this chapter.

NEW SECTION. **Sec.**  (1) The greenhouse gas emissions reduction account is created in the state treasury. The account must receive moneys distributed to the account from the climate finance account created in section 8 of this act. Moneys in the account may be spent only after appropriation. Moneys in the account must be used by the department of commerce for projects and incentive programs that yield verifiable reductions in greenhouse gas emissions in excess of baseline practices, with high priority placed upon funding projects that directly benefit economically distressed areas as defined in RCW 43.168.020.

(2) Twenty-five percent of the funds may be invested in projects and programs that are physically located in Washington state and include, but are not limited to, the following:

(a) Supplementing the growth management planning and environmental review fund established in RCW 36.70A.490 for the purpose of making grants or loans to local governments for the purposes set forth in RCW 43.21C.240, 43.21C.031, 36.70A.500, 36.70A.600, for costs associated with RCW 36.70A.610, and to cover costs associated with the adoption of optional elements of comprehensive plans consistent with RCW 43.21C.420;

(b) Programs, activities, or projects that deploy renewable energy resources, such as solar and wind power, and projects to deploy distributed generation, energy storage, demand side technologies and strategies, and other grid modernization projects;

(c) Programs, activities, or projects that increase the energy efficiency or reduce greenhouse gas emissions of industrial facilities including, but not limited to, proposals to implement combined heat and power, district energy, or on-site renewables, such as solar and wind power, to upgrade the energy efficiency of existing equipment, to reduce process emissions, and to switch to less emissions intensive fuel sources;

(d) Programs, activities, or projects that achieve energy efficiency or emissions reductions in the agricultural sector including fertilizer management, soil management, bioenergy, and biofuels;

(e) Programs, activities, or projects that increase energy efficiency in new and existing buildings, or that promote low-carbon architecture, including use of newly emerging alternative building materials that result in a lower carbon footprint in the built environment over the life cycle of the building and component building materials;

(f) Programs, activities, or projects that promote the electrification and decarbonization of new and existing buildings, including residential, commercial, and industrial buildings; and

(g) Programs, activities, or projects that improve energy efficiency, including district energy, and investments in market transformation of energy efficiency products.

(3) Seventy-five percent of the funds must be invested in programs, activities, or projects that are located in the state and reduce greenhouse gas emissions or mitigate the impact of greenhouse gas emissions from the transportation sector including, but not limited to, the following:

(a) The deployment of clean alternative fuel vehicle charging and refueling infrastructure;

(b) The support of clean alternative fuel car sharing programs to provide clean alternative fuel vehicle use opportunities to underserved communities and low to moderate-income members of the workforce not readily served by transit, or located in transportation corridors with emissions that exceed federal or state emissions standards;

(c) The provision of financing assistance to facilitate the purchase of battery and fuel cell electric vehicles by lower-income residents of the state;

(d) The provision of grants to transit authorities in the state to fund cost-effective capital projects that reduce the carbon intensity of the Washington transportation system including, but not limited to, electrification vehicle fleets, modification or replacement of capital facilities in order to facilitate fleet electrification or hydrogen refueling, upgrades to electrical transmission and distribution systems, and construction of charging and fueling stations;

(e) The provision of support to small trucking firms in conversion of vehicles to cleaner alternative fuels and acquisition and access to necessary fueling infrastructure, and assistance in mitigating the costs of the transition to cleaner fuel vehicles;

(f) The electrification and decarbonization of the state's passenger ferry fleet; and

(g) The conversion to battery or fuel cell electric fleets for the state, counties, cities, and public transit agencies.

(4) Public entities including, but not limited to, state agencies, municipal corporations, and federally recognized Indian tribes, as well as private entities, both not for profit and for profit, subject to constitutional limitations, are eligible to receive greenhouse gas emissions reduction account funds authorized by this section.

(5) Projects, activities, and programs must meet criteria to be established by the department of commerce. In developing criteria, the department of commerce may contract with the Washington academy of sciences established under chapter 70A.40 RCW for independent expertise.

(6) Projects or activities funded under this section should meet high labor standards, including family level wages, providing benefits including health care and pensions, and maximize access to economic benefits from such projects for local workers and diverse businesses.

(7) Funding may be provided for incremental greenhouse gas emissions reductions from projects that have already secured funding, but which can achieve more emissions reductions with additional resources.

(8) Recipients of funding for projects must submit to the department of commerce a progress report at a date or dates to be determined by the department of commerce. The progress report must provide information as may be required by the department of commerce by rule.

(9) The department of commerce must design project funding contracts, monitor project implementation, and track contract performance, to actively assist the project proponent in securing the expected project outcomes. The department of commerce may suspend or terminate funding when projects do not achieve projected reductions as provided in the funding agreement and, in cases of gross misuse of funds, may require a return of grant funding.

(10) The department of commerce must develop an electronic database available to the public to track projects and incentive programs receiving funding under this section. Projects must be ranked and sortable based on quantitative performance metrics, including the avoided cost of a ton of carbon dioxide equivalents.

(11) The department of commerce must seek recommendations from the environmental and economic justice panel in the development of policies and procedures for the allocation of funding under this section, as well as the implementation plan required by subsection (12) of this section.

(12) The department of commerce must develop an implementation plan for providing funding under this section. The implementation plan must be provided to the governor and the appropriate committees of the legislature by December 31, 2022.

NEW SECTION. **Sec.**  (1) The natural climate solutions account is created in the state treasury. All moneys directed to the account from the climate finance account created in section 8 of this act must be deposited in the account. Moneys in the account may be spent only after appropriation. Moneys in the account are intended to increase the resilience of the state's waters, forests, and other vital ecosystems to the impacts of climate change, as well as increase their carbon pollution reduction capacity through sequestration, storage, and overall ecosystem integrity. Moneys in the account must be spent in a manner that is consistent with existing and future assessments of climate risks and resilience from the scientific community and expressed concerns of and impacts to highly impacted communities, as designated by the department of health under RCW 19.405.140.

(2) Moneys in the account may be allocated for the following purposes:

(a) Clean water investments that improve resilience from climate impacts. Funding under this subsection (2)(a) must be used to:

(i) Restore and protect estuaries, fisheries, and marine shoreline habitats, and prepare for sea level rise including, but not limited to, making fish passage correction investments such as those identified in the cost-share barrier removal program for small forest landowners created in RCW 76.13.150 and those that are considered by the fish passage barrier removal board created in RCW 77.95.160;

(ii) Increase the ability to remediate and adapt to the impacts of ocean acidification;

(iii) Reduce flood risk and restore natural floodplain ecological function;

(iv) Increase the sustainable supply of water and improve aquatic habitat, including groundwater mapping and modeling;

(v) Improve infrastructure treating stormwater from previously developed areas within an urban growth boundary designated under chapter 36.70A RCW, with a preference given to projects that use green stormwater infrastructure; or

(vi) Preserve or increase carbon sequestration and storage benefits in agricultural soils and timber stock consistent with RCW 70A.45.090, including funding the sustainable farms and fields grant program established under RCW 89.08.615 to assist participants with increasing the quantity of organic carbon in soils and reducing or avoiding carbon dioxide equivalent emissions in or from soils; and

(b) Healthy forest investments to improve resilience from climate impacts. Funding under this subsection (2)(b) must be used for projects and activities that will:

(i) Increase resilience to wildfire in the face of increased seasonal temperatures and drought;

(ii) Improve forest health and reduce vulnerability to changes in hydrology, insect infestation, and other impacts of climate change; or

(iii) Assist forestland owners in the protection of riparian and other sensitive aquatic areas by providing compensation for easements under the program created in chapter 76.13 RCW.

(3) Moneys in the account may not be used for projects that would violate tribal treaty rights or result in significant long-term damage to critical habitat or ecological functions. Investments from this account must result in long-term environmental benefit and increased resilience to the impacts of climate change.

NEW SECTION. **Sec.**  (1) An environmental and economic justice panel is established to provide recommendations in the development and implementation of the programs, projects, and activities on greenhouse gas reduction and natural climate solutions authorized under this chapter. The departments of commerce, ecology, health, and transportation, the office of equity, and other state agencies as the governor may determine must coordinate and assist the panel.

(2) The governor must appoint the members of the environmental and economic justice panel, which must be cochaired by one tribal leader and one person that is a representative of the interests of highly impacted communities identified by the department of health in its health disparities map. The membership of the panel must consist of at least 10 persons, based on the nomination of statewide organizations that represent the following interests:

(a) Five members, including at least one tribal leader, representing the interests of vulnerable populations residing in highly impacted communities in different geographic areas of the state and from rural as well as urban areas;

(b) Two members representing union labor with expertise in economic dislocation, clean energy economy, or energy-intensive, trade-exposed facilities;

(c) A member in addition to the tribal leader in (a) of this subsection to represent tribal governments; and

(d) Two members representing low-income and community advocacy organizations.

(3) The governor may fill any position designated under subsection (2) of this section with a person who also serves upon the environmental justice council created in chapter . . ., (Senate Bill No. 5141), Laws of 2021 provided that such a person also meets the representative requirements of subsection (2) of this section.

(4) The purpose of the panel is to:

(a) Provide recommendations in the development of investment plans and funding proposals for greenhouse gas reduction and natural climate solutions authorized under this chapter;

(b) Provide a forum to analyze policies adopted under this chapter to determine if the policies lead to improvements within highly impacted communities;

(c) Recommend procedures and criteria for evaluating programs, activities, or projects for funding consideration under this act;

(d) Evaluate the level of funding provided to assist vulnerable populations, low-income individuals, and displaced workers, and the funding of projects and activities located within or benefiting highly impacted communities;

(e) Provide recommendations to implementation agencies for meaningful consultation with vulnerable populations; and

(f) Periodically conduct an evaluation of the economic impacts on and outcomes for low and middle-income households and vulnerable populations, including communities of color and Indian tribal communities, of the emissions reduction policies required in this chapter and the financial assistance provided under this chapter.

NEW SECTION. **Sec.**  (1) In order to achieve the goals set forth in this chapter, any state agency receiving funding from the accounts created in this chapter must consult with Indian tribes on all decisions that may affect Indian tribes' rights and interests in their tribal lands. The consultation must occur pursuant to chapter 43.376 RCW and must be independent of any public participation process required by state law, or by a state agency, and regardless of whether the agency receives a request for consultation from an Indian tribe. A consultation framework must be developed in coordination with tribal governments that includes best practices, protocols for communication, and collaboration with Indian tribes.

(2) No project that impacts tribal lands may be funded prior to meaningful consultation with affected Indian tribes. For projects that directly impact tribal lands, the goal of the consultation process is to obtain free, prior, and informed consent for the project, and at the end of such consultation, the project may not be funded unless the state agency first receives a written resolution providing consent or withholding consent. If any project that impacts tribal lands is funded under this chapter without consultation with Indian tribes, an affected Indian tribe may request that all further action on the project cease until consultation with any directly impacted Indian tribe is completed.

NEW SECTION. **Sec.**  This chapter may be known and cited as the Washington sustainable transformative recovery opportunities for the next generation act.

NEW SECTION. **Sec.**  Sections 1 through 20 and 23 of this act constitute a new chapter in Title 82 RCW.

NEW SECTION. **Sec.**  If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec.**  This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

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